



**Nursing Care Quality Assurance NCQAC (NCQAC)  
MINUTES  
May 11, 2007 310 Israel Rd SE  
Tumwater, WA**

**NCQAC Members  
present:**

Judith D. Personett, EdD, Certified Nurse  
Administrator Advanced (CNAAs), RN, Chair  
Susan Wong, MBA, MPA, RN, Vice-Chair  
Linda Batch, LPN  
Erica Benson-Hallock, MPPA, Public Member  
Richard Cooley, LPN  
William Hagens, MA, Public Member  
Todd Herzog, CRNA, RN  
Rev. Ezra Kinlow, MTH, Public Member  
Jackie Rowe, RN  
Robert Salas, RN  
Rhonda Taylor, MSN, RN  
Mariann Williams, MPH, MSN, RN, ARNP  
Susan Woods, PhD, RN, FAHA, FAAN

Unable to Attend: Diane Sanders, RN, BC, MN

**Assistant Attorney General:** Gail Yu, Assistant Attorney General

**Staff present:** Paula Meyer, MSN, RN, Executive Director  
Kris McLaughlin, Secretary  
Mary Dale, Nurse Discipline Manager  
Teresa Corrado, Health Services Consultant  
Terry West, Health Services Consultant

**1. Dr. Personett, Chair, called the meeting to order at 8:45AM**

- **Introductions** – NCQAC members, staff and audience introduced themselves
- **Order of the Agenda** – Item #11 will be moved to after #16
- **Correspondence**
  - National Council of State Boards of Nursing (NCSBN) Report of Findings from the 2005 LPN/VN Post Entry-Level Practice Analysis

- Commission on Graduates of Foreign Nursing Schools, February 27, 2007
- A thank you note
- **Announcements**

## 2. **Consent Agenda**

Items listed under the consent agenda are considered routine agency matters and approved by a single motion of the NCQAC without separate discussion. If separate discussion is desired, that item will be removed from the consent agenda and placed on the regular business agenda.

- A. Approval of minutes
  - 1. NCQAC business meeting
  - 2. NCQAC Disciplinary Hearing minutes
  - 3. Licensing and Discipline sub-committee
  - 4. Continuing Competency sub-committee
  - 5. Nursing Program Approval Panel (NPAP)
- B. National Council of State Boards of Nursing (NCSBN) Correspondence Washington State nurses, Item Writers for the NCLEX® examination
- C. Department of Health (DOH) correspondence
- D. Licensing statistics
- E. DOH open and closed complaints statistics

**ACTION:** A motion was made and passed to accept the consent agenda

## 3. **Chair report – Dr. Personett**

- A. **March 24: American Academy of Nurse Practitioners**  
**DISCUSSION:** Ms. Williams gave a report on her attendance at the American Academy of Nurse Practitioners regional leadership meeting held in Seattle.
- B. **April 2-4 National Council of State Boards of Nursing (NCSBN)**  
**Leadership day: Jim Farrell, Arbinger Group, Conflict Communication. April 2, and,**
- C. **April 3-4, NCSBN mid-year meeting, New Orleans LA**  
**DISCUSSION:** Dr. Personett and Ms. Meyer attended the leadership day of the NCSBN's mid-year meeting on April 2. Mr. Jim Farrell of the Arbinger Group presented conflict communication and resolution. Mr. Farrell spoke on beliefs we all have and communicating outside the box. He discussed our reactions to others rather than listening intently to the message, clarifying the message, and then presenting our personal viewpoint. The representatives discussed leadership and used the analogy of enclosing your beliefs in a box well protected from any reality checks.  
 On April 3-4, Ms. Rhonda Taylor joined Dr. Personett and Ms. Meyer for the NCSBN mid-year meeting. Presentations from all NCSBN committees

and work groups were presented as well as a session to dialogue with the board.

- D. April 12 and 13 Council of Nursing Educators of Washington State (CNEWS) meeting held in Spokane – Dr. Personett, Rhonda Taylor, Dr. Sue Woods, Paula Meyer

**DISCUSSION:** CNEWS requested an orientation from the NCQAC for new deans and directors of nursing programs. Ms. Taylor requested a task force to draft the orientation. A suggestion to include the disciplinary 101 video and the need for all participants to be familiar with the Nursing Regulations.

**ACTION:** Volunteers for the task force are Ms. Linda Wynn, Ms. Jackie Rowe, Mr. Bill Hagens, Ms. Mariann Williams, Ms. Usrah Claar-Rice and Dr. Susan Woods.

**E. May 14 Board/Commission/Committee Leadership meeting**

**DISCUSSION:** Dr. Personett and Ms. Meyer are registered to attend the leadership meeting on May 14 in SeaTac. The agenda includes a legislative update, organizational and policy topics of current interest, and a group discussion about the 2007 legislative session.

**4. Executive Director report**

**A. Legislative Task Force Report**

**DISCUSSION:** Ms. Meyer reported on the 2007 Legislative session.

Dr. Personett reported on HB 1103. The NCQAC would like to talk with Mary Selecky, secretary of the Department of Health, to register some concerns. A better understanding of the NCQAC's disciplinary work needs to be communicated. Dr. Personett spoke with Ms. Selecky and she is aware of the issues. The likelihood of the bill being introduced again next year is high and NCQAC would like her to be prepared to answer the questions.

Joan Garner, a representative from the Washington State Nurses Association was recognized for the work done on the bill and state more work needs to be done.

- B. On Gom Nursing Assistant case: request to the US Supreme Court based on level of evidence

**DISCUSSION:** Ms. Alice On Gom is a nursing assistant who had alleged physical abuse of a nursing home patient. The nursing assistant program

is under the authority of the Secretary of Health, who brought charges against Ms. On Gom's nursing assistant certification. The charges were upheld by a Health Law Judge and the certification was suspended. The necessary level of evidence to support these cases has been at the preponderance level, or just enough to 'tip the scales.' The reason this level of evidence is used is because of the need to protect vulnerable people in health care who may not be able to represent themselves related to disease, medications, or lack of witnesses to support the patient. Ms. On Gom's case argued that the level of evidence collected and used should be at the clear cogent and convincing level because removal of her certificate renders her without a job and she may not be able to secure a job as a nursing assistant.

Ms. On Gom challenged the Health Law Judge's (HLJ) decision to the Supreme Court which upheld the HLJ decision. A request to the Court of Appeals upheld the HLJ decision. Ms. On Gom then requested the WA State Supreme court to hear the case. The state Supreme Court disagreed with the level of evidence collected and therefore overturned the decision. Related to the impact on health care licensing decisions, protection of vulnerable patients, and potential impact on other cases where the preponderance level of evidence is collected, the Attorney General Office of the State of Washington requested the US Supreme Court to hear the case. Amicus briefs were requested from the National Council of State Boards of Nursing, other state boards of nursing, and the Federated Association of Regulatory Boards. While support from these bodies existed, the US Supreme Court did not grant the request.

Therefore, it is now understood that all health care disciplinary cases must have clear, cogent and convincing evidence collected to support charges and allegations for licensing and disciplinary decisions. A previous case, Bang Nguyen v. MQAC, determined this level of evidence was necessary for all medical commission decisions.

C. **Health Professions Quality Assurance (HPQA) Sanctioning Guidelines – Patti Latsch, HPQA Deputy Director**

**DISCUSSION:** Ms. Latsch presented the modified HPQA Sanctioning Guidelines. Ms. Latsch requested that the NCQAC adopt the guidelines. The guidelines were developed by Department of Health staff, staff Attorneys, Health Law Judges and representatives from the Attorney General Office. The NCQAC uses the HPQA sanctioning guidelines in conjunction with their sanctioning standards to achieve consistency in charging and sanctions of cases with similar fact patterns. The NCQAC also uses the HPQA Case Disposition worksheet and the Case Summary report to capture decisions, mitigating and aggravating factors.

The NCQAC will use the modified HPQA Sanctioning Guidelines and consider adoption of them at their July meeting.

**D. Investigations report – Dave Magby, Chief Investigator, and Patti Latsch, HPQA Deputy Director**

**DISCUSSION:** Mr. Magby reported on the efforts to recruit investigators who are RNs. The target is to hire four more investigators who have clinical skills. Individual case loads for investigators are extremely high with 40 cases per investigator. Mr. Magby explained beginning to work together with the Legal team to discuss if they are being responsible to all Boards and commissions. Mr. Magby offered to provide a report to the NCQAC at a later date. Mr. Magby explained that if NCQAC members receive files that are not paginated or have duplicate records, to contact him with this information. Mr. Magby was asked why the turnaround on investigations is delayed and the barriers to recruitment. Mr. Magby explained that the salary for health care investigators is not equal across the state agencies but Human Resources is conducting a job class review.

**DECISION:** Mr. Herzog asked what the NCQAC could provide to help with this process. It was suggested to include these concerns with the new reviewing NCQAC member orientation and asked for questions.

**ACTION:** A motion was made and passed that the NCQAC will submit a letter to DOH Human Resources supporting job class review and the use of RNs to complete nursing scope of practice investigations.

**E. Citizens Advocacy Center annual meeting, October 28, 2007, Seattle: All public members, chair and executive director attendance**

**ACTION:** Since the conference is scheduled in Seattle this year, the NCQAC will support all three public members, the NCQAC Chair and Ms. Meyer to attend.

**F. Signature authority delegated to Department of Health personnel and Staff.**

**DISCUSSION** – Ms. Irene Oplinger was granted signature authority today for Secretary and Nursing professions disciplinary decisions.

**G. Advanced Registered Nurse Practitioner (ARNP) rules – timeline and plan**

**DISCUSSION:** Ms. Mindy Schaffner will be hired to help with the ARNP rules workshops. Ms. Schaffner has experience with the rules process, completing Small Business Economic Impact Statements and the Significant Analyses required. It is anticipated that the rules will be

opened and workshops held this summer. Use of the Washington State University videoconferencing capabilities is being pursued.

**H. Nursing Technicians fees**

**DISCUSSION:** Ms. Terry West gave the history of the Nursing Technician fees in 2006-2007.

The legislation creating the Nursing Technicians is under chapter 18.79, the nursing laws. The fees for nursing technicians were adopted to cover the costs of licensing and discipline of nursing technicians and not be placed with RNs, LPNs and ARNPs. Ms. West reported that the first step to evaluating the fees for nursing technicians will be to change the master index code for the nursing technician fees to the nursing fees code. This will be effective July 1, 2007. The renewal fees for nursing technicians was reduced in 2006 to \$35, but the application fee remains higher than the nursing fees. These fees will remain in place and a full fee study of all nursing fees will be conducted in 2008.

**I. Lap tops for NCQAC members, nursing case disposition worksheet, packets and investigative files on CDs**

**DISCUSSION:** Ms. Meyer reported the purchase of five laptops has been approved. A consultant has been hired to work on scanning of documents and security of the laptops and documents. While this may take some time, the goal is to have all investigative and disciplinary files be electronic. This will add many more security measures than we currently use.

NCQAC also reviewed the most current version of the disciplinary worksheet that has been modified by Rick Cooley. Mr. Cooley has been working on the document to make it more user friendly, decrease duplication with the HPQA disciplinary worksheet, and place this on an electronic file. The disciplinary worksheet can then be emailed back and forth, saving valuable time after the charging decisions have been made.

Ms. Meyer also announced that the Board/Commission/Committee survey will be sent electronically to all NCQAC members between May 18 – 31<sup>st</sup>. An email will be sent prior to the survey being sent out. She encouraged all NCQAC members to complete the survey since it helps improve services.

**5. 10:00AM Rules hearing – Nursing Technicians, Sexual Misconduct – Kendra Pitzler - DISCUSSION/ACTION**

**ACTION:** The rules hearing began at 10:00AM on May 11, 2007. A motion was made and passed to adopt the Nursing Technicians and Sexual Misconduct rules. The rules will go into effect 31 days after filing. The rules hearing ended at 10:10AM May 11, 2007.

**6. Nursing Assistant, Certified, examination recommendations - Kendra Pitzler - DISCUSSION/ACTION**

**DISCUSSION:** Ms. Susan Wong and Mr. Robert Salas reviewed three Requests for Proposals (RFP) to provide the nursing assistant, certified, examination. According to the Nursing Assistant regulations, the NCQAC approves the examination provider. Ms. Wong and Mr. Salas provided recommendations on the examination provider to the NCQAC. The NCQAC is responsible for the approval of the state portion of the nursing assistant certification examination while DSHS is responsible for the approval of the federal portion of the nursing assistant examination.

**ACTION:** A motion was made and passed that Promissor will be the first choice in vendors and Prometric as the second choice in vendors to provide the examination.

**7. Public Health Nursing: Oral Contraceptive start packs with postpartum visits – Wilma Elmore, RN, Seattle/King County Public Health**

**DISCUSSION:** Ms. Elmore and Ms. Marni Story reported on the role of the public health nurse that includes prevention of disease and untoward health concerns in the treatment of the community. Ms. Elmore explained the role of the public health nurse in prevention of pregnancy.

**ACTION:** Ms. Rhonda Taylor, Ms. Mariann Williams, Ms. Linda Batch and Ms. Erica Benson- Hallock will work with Ms. Elmore and Ms. Storey to begin to frame the issues. Ms. Meyer will work with this group.

**8. Authority to restock automated drug distribution devices**

**DISCUSSION:** Mr. Fuller, DOH staff working with the Board of Pharmacy, reported on a recent hearing and explained the approval of a new rule, WAC 246-872 Automated Drug Distribution Devices. There was one unresolved issue, the stocking of medications in the automated devices. The rule limits the restocking to pharmacists, pharmacy interns, or specially trained pharmacy technicians. Mr. Fuller presented the issue of nurses stocking the automated devices. The Pharmacy Board has no authority to determine nursing practice. Mr. Fuller asked the NCQAC if this is within the nursing scope of practice.

**ACTION:** A motion was made and passed that the NCQAC develop a statement to answer the Pharmacy Board's scope of practice question regarding nurses stocking automated devices. A task force to develop a statement will include Ms. Batch, Mr. Herzog, Mr. Hagen and Mr. Fuller.

**9. Washington Health Professionals Services (WHPS)**

**DISCUSSION:** Ms. Sullivan, Executive Director for WHPS was not available. Ms. Amanda Capehart, case manager with WHPS, reviewed the process for voluntary entry into the program, non-compliance with program contracts, involuntary entry into the program, evidence needed for investigation, unique closure of WHPS cases, and process improvements identified.

**10. NCSBN activities – Paula Meyer - DISCUSSION/ACTION**

Ms. Meyer discussed the committee descriptions and openings. Nominations for awards: Meritorious Service, Cheryl Payseno; Regulatory Achievement, NCQAC

**DISCUSSION:** Ms. Meyer thanked the NCQAC for their hard work. Ms. Payseno was in the audience and was thanked for her many years of excellent service on the NCQAC. Ms. Payseno thanked the NCQAC for the nomination and said that the recognition from her peers was worth more than any award.

**11. Delegation of Brief Adjudicative Proceedings (BAP) to HPQA Health Law Judges**

**DISCUSSION:** The NCQAC currently delegates BAP decisions to the Health Law Judges (HLJ) on a case by case basis. The NCQAC was asked to consider blanket delegation of administrative review of BAPs to the HLJs

**MOTION:** A motion was made and passed to grant to the HLJs, on a full time basis, to perform administrative review of BAPs in compliance with WAC 246-11-420.

**12. Discussion Items - DISCUSSION/ACTION**

- Ms. Meyer asked the NCQAC for advice on practice questions she has received.
  - A resident of an Adult Family Home is of Christian Science faith. Can a nurse (RN or LPN) accept orders from the Christian Science Doctor? According to the nurse practice act, nurses act according to a medical regimen and accept orders from a list of providers who have prescriptive authority, including medical doctors, osteopathic physicians and surgeons, etc. Christian Science doctors are not included in that list and therefore, nurses cannot take orders from them in any setting. It was suggested that Christian Science believers may not want to receive care from an RN or LPN, and it would be best to have someone of their own faith provide the care and treatments.
  - Issues related to failure to supervise and evidence needed to support these allegations. Ms. Meyer has ordered the Scope of Practice statements and standards for the Certified Nursing Administrators. Ms. Meyer requested NCQAC members to work with Jim Smith, the

investigative supervisor, and Marc Defreyn, the supervising staff attorney, to:

1. Review the scope of practice statements
2. Develop a list of documents that can be used by NCQAC members in these complaints that will guide the investigators in their collection of evidence
3. Assist the staff attorneys when these cases are presented at charging panels with fully understanding the variations from the standards in these cases.

Diane Sanders, who was unable to attend the meeting, had volunteered to assist on this group.

- Community Health Center of Snohomish County asked if RNs could order prescription refills from a list of medications developed by physicians under standing orders. While Ms. Meyer worked with Grace Cheung, Board of Pharmacy Chief Investigator, and Ms. Beverly Thomas, DOH staff for the MQAC to develop an answer to their question, Dr. Thomas Tocher with Community Health Center of Snohomish County, has further questions on the practice. It was suggested that several NCQAC members visit the facility, review the facility's draft statement and practice. The NCQAC members and representatives from Community Health Center of Snohomish County will then present recommendations to the NCQAC at their July meeting.  
**ACTION:** Mr. Herzog, Ms. Batch, Ms. Wong and Ms. Meyer will visit work with their staff and present recommendations at the July meeting.
- A concern from the licensing staff related to ARNPs and their certification was presented. If an ARNP's certification lapses before the end of the licensure period, and the ARNP has not renewed their certification, is this a valid ARNP license?  
**ACTION:** Consensus among the NCQAC members was that if the certification lapses and is not renewed, the ARNP license is not considered valid. The person can work as an RN since the ARNP license requires an active RN license, but cannot work as an ARNP until the national certification is renewed.
- Ms. Meyer announced that the MQAC will be conducting their office based surgery rules hearing on May 30 in Renton. The MCQAC would appreciate support from the NCQAC. Ms. Meyer will send out an announcement to all NCQAC members prior to the hearing.

### **11:30AM Executive Session if needed**

The Executive Session is that part of a regular or special meeting closed to the public.

Executive Session was not held.

## **LUNCH**

### **1:00PM–OPEN MIKE**

Open mike is for public presentation of issues to the Nursing NCQAC. If the public has issues regarding disciplinary cases, please call: 360-236-4727.

- Ms. Joan Garner thanked the NCQAC for the microphones that work and the NCQAC newsletters. She also thanked Mr. Herzog for talking with WSNA on Continuing Competency.
- Mr. Tom Herberg, who addressed the NCQAC in November regarding consideration of his degree at Excelsior College, thanked the NCQAC for moving forward on consideration of accepting his degree and looks forward to working in Washington State.
- Lois Hoell, representing North West Organization of Nurse Executives (NWONE) reported that the Spokane meeting was a success. She added that clinical expertise needs to be included in hiring investigators.

### **13. Election of officers**

**ACTION:** The NCQAC re-elected Dr. Judith Personett as their Chair and Ms. Susan Wong as their Vice Chair for 2007-2008. They will begin their new terms of office at the July 2007 meeting.

All ballots were available for viewing at the NCQAC business meeting.

### **14. Out of State Travel Plan**

Ms. Meyer explained the NCQAC is allowed 10 out of state trips from July 1, 2007 through June 30, 2008. The NCQAC determined which NCQAC members and staff will attend upcoming meetings planned out of Washington State. A list of meetings are available by contacting the NCQAC office (360) 236-4713.

### **15. Nursing Practice Guidelines**

**DISCUSSION:** Mr. Robert Salas, Ms. Diane Sanders and Ms. Linda Batch reviewed the Nursing Practice Guidelines. Recommendations were made to renew and rescind advisory opinions/policy statements.

**ACTION:** A motion was made and passed to defer these recommendations until the new Nursing Practice Advisor is hired.

### **16. Excelsior College of Nursing issues**

**DISCUSSION:** Ms. Meyer provided a report on recent Brief Adjudicative Proceedings related to Excelsior College of Nursing graduates' applications for licensure in Washington State. A recommendation for a letter to Excelsior College describing the current rules required for Excelsior graduates for licensure in Washington was made.

**ACTION:** A motion was made and passed to write a letter to Excelsior College explaining current rules and include a copy of the draft rules to be presented in September.

**17. Non-surgical Cosmetic Procedures – Medical Quality Assurance Commission (MQAC)**

**DISCUSSION:** Ms. Meyer explained that at the March meeting, Dr. Selinger and Ms. Thomas requested the NCQAC consider actions that may be within the scope of practice of nurses. Physicians need to know the limitations of nursing practice with these procedures when they are considering delegating to nurses.

**ACTION:** Mr. Cooley and Mr. Salas volunteered to work with Ms. Meyer to develop answers to the MQAC questions.

**18. Subcommittee reports – DISCUSSION/ACTION**

**A. Consistent Standards of Practice report**

**DISCUSSION:** Ms. Taylor gave an update on the decision to combine the Consistent Standards workgroup with the Continuing Competency and how many of the goals and objectives cross over.

**ACTION:** A motion was made and passed to continue combination of the Consistent Standards of Practice Sub-committee with the Continuing Competency sub-committee and revisit in May 2008.

**B. Discipline and Licensing report**

**DISCUSSION:** Ms. Rowe explained the committee's focus on mandatory reporting. An article was in the newsletter but their challenge has been getting a link on the website to mandatory reporting. They are continuing to strive to get the information out to the public.

**C. Continuing Competency report**

**DISCUSSION:** Mr. Herzog thanked WSNA for inviting him to speak at their convention. He mentioned that the Continuing Competency workgroup would not have come this far without the additional Consistent Standards workgroup. He mentioned that Linda Burhans, Continuing Competency Consultant from North Carolina has agreed to speak at the NCQAC's July workshop. Mr. Herzog is developing agenda items for the workshop presentation with Ms. Burhans. The group is continuing to work on charter statements for the advisory groups. Ms. Meyer announced that there will be six additional pro tem members to chair the continuing competency advisory groups.

**19. Dr. Judith Personett, Chair adjourned the meeting at 2:20PM on May 11, 2007. Notes were taken by Kris McLaughlin**

Approved by \_\_\_\_\_  
NCQAC Chair

Notes were taken by \_\_\_\_\_